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FACTFINDING REPORT

STATE OF OHIO

STATE EMPLOYMENT RELATIONS BOARD

June 3, 1998

In the Matter of :

Cuyahoga County Commissioners
Emergency Medical Services

and

Communications Workers of America,
Local 4340

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Case No. 97-MED-09-0932

APPEARANCES

For the Employer:

David Williams, Labor Relations, Chief Spokesperson
Julia M.A. Moses, Deputy Director, Department of Justice Affairs
Casey Lazdinis, Personnel Administrator, Department of Justice Affairs
Jeanne M. Schmotzer, Assistant Manager, Emergency Services
John A. Swack, CECOMS, Supervisor

For the Union:

Charles M. DeGross, Attorney
Anita Blackwell, Director
Linda J. Franklin, Director

Factfinder:

Nels E. Nelson

BACKGROUND

The instant dispute involves the emergency service telecommunicators employed by Cuyahoga County and Communications Workers of America, Local 4340. The bargaining unit consists of approximately seven full-time and nine part-time dispatchers. The emergency service telecommunicators unit operates 24 hours per day, 7 days per week.

The dispute involves negotiations for an agreement to replace the one which was due to expire on December 31, 1997. When no agreement was reached, the Factfinder was appointed on December 1, 1997. The parties agreed to an extension of the time limits for factfinding in order to continue negotiations. However, when no agreement was reached, a hearing was scheduled for March 20, 1998.

On that date the Factfinder attempted to mediate the dispute. A number of issues were resolved but an overall agreement was not possible. Thus, a factfinding hearing was conducted on April 22, 1998.

The recommendations of the Factfinder are based upon the criteria set forth in Section 4117-9-05(k) of the Ohio Administrative Rules. They are:

- (a) Past collectively bargained agreements, if any, between the parties;
- (b) Comparison of the unresolved issues relative to the employees in the bargaining unit with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;
- (c) The interest and welfare of the public, and the ability of the public employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standard of public service;
- (d) The lawful authority of the public employer;
- (e) The stipulations of the parties;
- (f) Such other factors, not confined to those listed in this section, which are normally or traditionally taken into consideration in the determination of issues

submitted to mutually agreed upon dispute procedures in the public service or in private employment.

ISSUES

The parties presented eight issues to the Factfinder. For each issue the Factfinder will describe the current contract provisions, set forth the positions of the parties, summarize the arguments and evidence offered by the parties, offer his analysis of the issue, and where appropriate supply suggested contract language.

1) Shift Differential - The current contract provides that employees who work the evening shift or the night shift receive a shift differential of \$.25 per hour. The union seeks to increase the differential to \$.50 per hour. The county offers to raise the differential to \$.40 per hour.

Union Position - The union argues that the shift differential ought to be increased. It points out that it examined 25 county contracts and found six with shift differentials. The differentials are:

<u>Bargaining Unit</u>	<u>Afternoon</u>	<u>Evening</u>
Human Services	\$.35	\$.45
Board of Mental Retardation	4%	7.5%
Nursing Home	.40	.45
Building Trades	.25	.50
Sheriff - Inmate Services	.50	.60
Sanitary Engineer	.50	.50

County Position - The county opposes increasing the shift differential to \$.50 per hour. It claims that some of the comparisons offered by the union are not appropriate. The county indicates that it does not negotiate the contracts for the Sheriff's Department or the Board of Mental Retardation and Developmental Disabilities. It further observes that the other contracts involve different types of jobs varying from LPN's to heavy equipment operators.

Analysis - The Factfinder recommends that the county's offer be adopted. He believes that a \$.40 per hour differential for the evening and night shifts is consistent with the differentials in other county contracts. Furthermore, the nature of the operation makes evening and night work part of the regular routine.

Recommendation - The Factfinder recommends the following contract language:

Employees that work the evening shift (2:00 P.M. - 10:00 P.M.) or the night shift (10:00 P.M. - 6:00 A.M.) shall be compensated an additional forty cents (\$.40) per hour. An employee must work at least one (1) full hour. The shift differential shall not be paid for partial hours worked.

2) Overtime - Article 28, Section 1 of the current contract establishes a normal work period of 80 hours in a payroll cycle and Article 31, Section 1 states that employees will receive time and one-half for all hours worked in excess of 80 hours in a two-week pay period. The union seeks time and one-half after 40 hours in a week and 8 hours in a day. The county agrees to pay time and one-half after 40 hours in a week but rejects the demand for time and one-half after 8 hours in a day.

Union Position - The union argues that its demands are justified. It points out that the Fair Labor Standards Act requires time and one-half after 40 hours in a week. The union notes that five county contracts require time and one-half after 8 hours in a day.

County Position - The county states that it has no problem with time and one-half after 40 hours in week. It claims that the current provision for time and one-half after 80 hours in two weeks was adopted at the initiative of the bargaining unit so that employees could get every other weekend off. The county reports that it is looking into paying employees time and one-half for the time they have worked in excess of 40 hours in a week.

The county rejects the union's demand for time and one-half after 8 hours in a day. It points out that few county employees have this arrangement. The county maintains that

time and one-half after 8 hours is inappropriate in this bargaining unit because many employees are part-time and should not get an overtime premium after working only 8 hours. It further complains that employees would be able to trade shifts to generate overtime for themselves.

Analysis - The Factfinder recommends that the contract state that employees are entitled to time and one-half after 40 hours in a week. The county acknowledges that this is a matter of law. It also indicates that it is considering those instances where the legally required overtime premium was not paid.

The Factfinder must reject the demand for time and one-half after 8 hours. The nature of the operation and the number of part-time employees may result in employees either volunteering to work 16 hours in a day or being required to work the extra hours. The union was unable to establish a convincing rationale for its demand.

Recommendation - The Factfinder recommends that Article 31, Section 1 be changed as follows:

Employees shall receive time and one-half (1 1/2) their regular rate of pay for all hours worked in excess of forty (40) hours in a one-week period.

3) Limit of 16 Hours in 24 Hours - Article 28, Section 5 of the current contract provides that whenever a scheduled employee fails to report, the least senior employee must remain on duty until a replacement can be found. The union seeks to prohibit a third shift in a 24-hour period. The county rejects the union's demand.

Union Position - The union argues that three shifts of work in 24 hours is too much. It maintains that the result is extreme fatigue and the loss of productivity.

City Position - The city opposes the union's demand. It states that it cannot leave the center unmanned.

Analysis - The Factfinder recognizes the difficulties that staffing a 24-hour emergency operator creates for both employees and the county. Under the current

provision the county must exhaust the overtime call-in list and contact the call-in person before the least senior employee can be required to work. While it appears unreasonable to force an employee to work 24 consecutive hours, it is also essential that the center be adequately manned to handle emergency calls.

While the evidence indicates that it is very unusual for an employee to be required to work three shifts in 24 hours, a strong incentive should be provided to insure that the county does all it can to avoid the situation. The Factfinder, therefore, recommends that the county be required to pay time and one-half to an employee who is forced to work a third shift in 24 hours.

Recommendation - The Factfinder recommends the following contract language:

An employee who is required to work more than 16 hours in a day shall be paid time and one-half for all time worked in excess of 16 hours.

4) Easter Holiday - Article 20 of the current contract covers holidays. Section 1 lists ten holidays and Section 5 requires that employees be paid time and one-half for working a holiday plus holiday pay. The union seeks to add a Section 9 to Article 28 which would require employees to be paid time and one-half for working on Easter. The county opposes the union's demand.

Union Position - The union contends that its demand is justified. It points out that the emergency dispatch center is a 7-day per week, 24-hour per day operation so that employees are required to sacrifice holidays. The union maintains that employees are entitled to be compensated when they are required to work. It notes that county employees who work Monday through Friday have only a remote chance of having to work on a holiday.

County Position - The county challenges the union's demand for an Easter holiday. It contends that working on holidays is part of a 7-day/24-hour operation. The

county charges that the union is trying to "backdoor" another holiday through the hours of work provision in the contract.

Analysis - The Factfinder cannot grant the union's demand. While he understands that it may be difficult to be away from family and friends on holidays, it is part of a continuous operation. The Factfinder believes that it would be inappropriate to recommend that this small bargaining unit enjoy more holiday benefits than other county bargaining units.

Recommendation - The Factfinder recommends the current contract language.

5) Health Insurance - Article 34, Section 1 requires the county to contribute \$500 per month for family health insurance coverage and \$180 per month for single coverage. The union wishes to increase the county contribution to \$550 and \$200 for 1998. It further demands that if the rates increase after January 1, 1999, the county pay the first 10% and 90% of any amount greater than 10%. The county proposes that effective January 1, 1999 it contribute 80% toward the cost of the most expensive plan and 95% toward the cost for all other plans. On January 1, 2000 it seeks to maintain its 80% contribution for the most expensive plan and to reduce its contribution for all of the other plans to 92.5%.

County Position - The county contends that it wishes to get a handle on rising health care costs. It stresses that other bargaining units share in the cost of health insurance.

Union Position - The union charges that there is no precedent for the county's proposal for "straight cost sharing." It further observes that the contribution rates vary for the different bargaining units with the county contributing up to \$600 for family coverage.

Analysis - The county approaches health insurance in a different manner than other public employers. Most public employers require the same contribution for health

insurance from all of the bargaining units and from non-bargaining unit employees. The county, however, appears to have 21 different contribution rates.

Health insurance for 1998 is not a difficult issue. The county offers to continue its current contribution of \$500 per month for family coverage and \$180 per month for single coverage. These contributions result in fully paid coverage under the three HMO's. The PPO requires an employee contribution of \$84.47 per month for single coverage and \$182.27 per month for family coverage. However, few if any employees are enrolled in the PPO.

The Factfinder believes that in 1999 and 2000 members of this bargaining unit should have essentially the same health insurance benefit as the majority of other bargaining unit employees. An appropriate starting point, therefore, is the health care provision in the agreement between the Department of Human Services and AFSCME, Local 1746 which covers approximately 1800 employees. It provides that effective January 1, 1999 the county will pay 80% of the premium for the PPO and 92.5% of the premiums for the HMO's. However, supplemental coverage (dental, hearing, life, and vision insurance) is provided through AFSCME Ohio Health and Welfare Plan. The \$44.25 per month cost of the plan is paid in full by the county.

For members of the CWA bargaining unit to be treated the same as the members of the largest bargaining unit two things are necessary. First, the county must be required to make the same contribution toward the cost of basic health insurance. Second, it must pay the cost of the supplemental coverage for members of the bargaining unit.

The result of this plan is that members of the bargaining unit will have to make a modest contribution to the monthly cost of health insurance beginning January 1, 1999. If the premiums for the Qualchoice HMO, the most popular plan, do not change, employees will pay 7.5% of \$381.62 or \$28.62. Employees who opt for Kaiser Permanente will pay \$25.51. Assuming no increase in the premium for supplemental coverage, the county will

pay \$56.39 for the additional coverage. Any increase in the cost of supplemental coverage will be paid by the county.

Recommendation - The Factfinder recommends the following contract

language:

Effective January 1, 1998 the Employer shall contribute the following amounts for health care coverage per month, as specified below, toward the Flexcount Health Plan option selected by an eligible employee:

Family - \$500.00

Single - \$180.00

Effective January 1, 1999, the County shall contribute eighty percent (80%) of the premium cost for its most expensive medical benefit plan option (currently the Qualchoice PPO Plan) and employees electing to participate in that plan shall contribute twenty percent (20%) excluding the cost of supplemental coverage. For all other medical plan options offered by the County (currently the Qualchoice HMO, Kaiser and Personal Physicians Care plans), the County shall contribute ninety-two and one-half percent (92.5%) of the premium cost for each plan and employees electing to participate in a plan shall contribute seven and one-half percent (7.5%) of the premium costs for that plan excluding supplemental coverage. The county shall pay the full cost of supplemental insurance for employees.

6) Duration - The duration of the collective bargaining agreement is set forth in Article 39. The union proposes a three-year agreement to be effective January 1, 1998 and to expire December 31, 2000. The county seeks a contract to be effective April 1, 1998 and to expire December 31, 2000.

Union Position - The union argues that the contract should be effective January 1, 1998. It contends that there is no justification for wage increases not to be retroactive.

County Position - The county opposes the retroactivity of wages.

Analysis - The Factfinder recommends that the contract be effective January 1, 1998 and expire December 31, 2000. He does not believe there is any basis to deny employees wage increases effective January 1, 1998 as the union alone cannot be held responsible for delays in concluding an agreement.

Recommendation - The Factfinder recommends the following contract

language:

This Agreement shall become effective January 1, 1998 upon approval of the Board of Cuyahoga County Commissioners and the Local Union and shall remain in full force and effect until midnight, December 31, 2000 and thereafter from year to year unless at least ninety (90) days prior to said expiration date or anniversary thereof, either party give notice to the other of an intent to modify this Agreement. Within thirty (30) days receipt of said notice, a conference will be arranged to negotiate any proposals.

7) Tuition Reimbursement/Certification - The union proposes a new article dealing with tuition reimbursement. It would provide up to \$1000 per calendar year for approved course work that is related to an employee's current position, classification, or "other appropriate positions leading to advancement." The county offers to pay the full cost of any training and continuing education certification for emergency service telecommunicators required by the state. It also proposes paying employees their regular rate of pay while attending such courses.

Union Position - The union argues that its demand ought to be recommended. It reports that in the Sheriff's Department the contracts for the cooks, corrections officers, and deputies provide for tuition reimbursement for courses approved by the employer and that the contract for the Board of Mental Retardation and Developmental Disabilities provides for reimbursement for tuition and books for approved courses for up to \$1500 in 1998 where the courses increase an employee's proficiency and qualifications. The union notes that the contract for the Child Support Enforcement Agency indicates that the employer will continue to offer employees the opportunity to participate in the Training Opportunities for Program Staff (TOPS) training program funded by the Ohio Department of Human Services.

County Position - The county contends that its proposal ought to be adopted. It reports that recent legislation establishes 40 hours of initial training and then eight hours of

training every two years but does not require certification. The county indicates, however, that it wants everyone to be certified.

Analysis - The Factfinder must recommend the county's proposal. He believes that the union's demand for tuition reimbursement might require the county to pay for courses with little or no relationship to the work performed by members of the bargaining unit. The county's proposal insures that employees will receive the necessary training at no cost to them and with no loss in earnings.

Recommendation - The Factfinder recommends the following contract language:

A CECOMS employee who has completed one year of service with the CECOMS division, shall be eligible for training and continuing education certification for emergency service telecommunicators, as prescribed by the State of Ohio Board of Education. All emergency service telecommunicators certification training prescribed by the State of Ohio Board of Education shall be 100% paid for and/or reimbursed by the Employer. The Employer shall determine the schedule for certification and continuing education or CECOMS employees. While in attendance at any prescribed State of Ohio Board of Education emergency service telecommunicators certification and/or continuing education course, CECOMS employees shall be paid at their regular hourly rate of pay.

8) Wages - Appendix A of the collective bargaining agreement sets forth a rate of pay for new employees and the wage rate for each member of the bargaining unit. The starting rate is \$8.83 which increases to \$9.09 after the probationary period is completed. The wages of the current employees range from \$9.09 to \$13.44. The union proposes the creating of a step wage schedule with a six-month probationary rate followed by four annual increases. It wishes to place employees on the schedule effective January 1, 1998 and in subsequent years advance on the schedule. In addition, it demands that each step be increased by 3.5% on January 1, 1999 and January 1, 2000. The union maintains that any employee who does not receive a 3.5% increase moving to the schedule should be granted a bonus to achieve that increase. The county proposes specific increases in the

hourly rates of pay for employees and "cash awards" in seven cases. It offers a starting rate of \$9.09 rising to \$9.60 after the completion of the probationary period.

Union Position - The union argues that a step wage schedule should be adopted. It proposes that employees be placed on its wage schedule as follows: employees earning \$9.09 are placed at \$9.50, employees earning \$9.53 to \$9.92 are placed at \$10.00, employees earning \$10.28 to \$11.08 are placed at \$11.50, and employees at \$13.00 to \$13.44 are placed at \$13.00. The union dictates that any employee who does not receive a 3.5% increase by being placed on the wage schedule will receive a bonus to yield a 3.5% increase over their current earnings.

The union contends that a step wage schedule is justified. It claims that the Department of Human Services, the corrections officers in the Sheriff's Department, the Child Support Enforcement Agency, and others have step wage schedules. The union further indicates that its members' wages are low given their responsibilities and the county's ability to pay.

The union claims that its wage demand is justified by comparisons to other dispatchers' pay. It points out that in 1996 the average top wage rate for police dispatchers in 16 suburban cities in Cuyahoga County was \$13.42. The union notes that a January 1, 1998 report from the State Employment Relations Board indicates that in 136 cities in Ohio the average starting rate for police dispatchers was \$10.26 and the average top rate was \$13.67.

County Position - The county asserts that its goal is to eliminate the disparity in wages among employees doing the same work within the parameters of 3% wage increases in 1998-2000. It would increase the wage of employees earning \$9.09 to \$9.53, employees earning \$9.53 would receive \$9.60 plus a bonus of \$250 or \$500, employees earning \$9.92 to \$10.72 would receive \$10.72 with one employee receiving a bonus, the employee earning \$11.08 would receive a bonus, employees earning \$13.00 would receive \$13.20 plus a bonus, and the employees receiving \$13.44 would receive \$13.64 plus a

bonus. The county insists that the increases should be effective April 1, 1998. It proposes increasing the various wage rates \$.29 to \$.37 on January 1, 1999 and \$.16 to \$.37 on January 1, 2000. The city notes that four employees would also receive bonuses on January 1, 1999 and January 1, 2000. The county indicates that its proposal involves a substantial increase in wages. It points out that the average wage increase is 3.3% on April 1, 1998, 3.1% on January 1, 1999, and 2.9% on January 1, 2000. The county states that the total cost is \$24,023 or 9.5% over the life of the agreement.

Analysis - The current array of wages paid to employees appears to make little sense. The employees perform the same job but receive drastically different wages even with the same seniority. For example, employees with twelve years of service receive wages ranging from \$11.08 to \$13.44. In one case an employee with ten years of seniority receives \$10.72 while an employee with 11 years of seniority receives only \$10.28.

The union attempts to address this problem by creating a step wage schedule and placing employees on the various steps. The difficulty is that the union's proposal results in an unreasonably high cost to the county. Attempts in mediation to develop a workable step schedule were unsuccessful.

The Factfinder believes that although he cannot recommend a step wage schedule at this time, it is essential that the array of wages be made more rational and the inequities be reduced. Accomplishing this goal means that a few of the highest paid employees will not receive an increase in the first year of the contract and one employee will receive no increase for two years. At the same time the lowest paid employees will receive significant wage increases. As the range of salaries is reduced and the inequities are eliminated, it will become easier to agree upon a step wage schedule that will benefit both the county and the union.

The Factfinder recommends that wages be adjusted effective January 1, 1998 as follows:

<u>Employee</u>	<u>Date of Hire</u>	<u>Current Wage</u>	<u>1/1/98 Wage</u>
Giurbino	08/29/85	13.44	13.44
Harding	08/29/85	13.00	13.00
Pittman	08/29/85	11.08	13.00
Weber	08/29/85	13.00	13.00
Woods	07/15/86	10.28	11.50
Albert	09/09/87	10.72	11.50
Sevier	01/02/90	9.92	10.00
Stockwell	05/01/91	9.53	10.00
Kuhn	06/09/92	9.53	10.00
White	09/24/95	9.09	9.50
Caballero	11/06/95	9.09	9.50
Ruma	07/15/96	9.09	9.50
Thomson-Stockwell	07/24/96	9.09	9.50
Zack	10/10/96	9.09	9.50
Amos	10/15/96	9.09	9.50

He suggests a probationary rate of \$9.09 which rises to \$9.50 upon the completion of the probationary period.

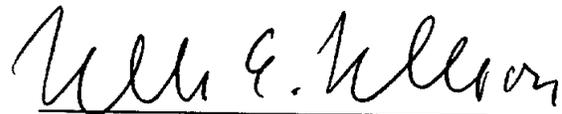
The Factfinder recommends that each employee's wage rate and the probationary rate be increased by 3% effective January 1, 1999 and January 1, 2000. This recommendation is based on the increases negotiated in the other county bargaining units. It also reflects the relative stability of consumer prices and the wages paid to dispatchers in Ohio.

Recommendation - The Factfinder recommends the following contract language:

The Employer agrees to pay the hourly wages to employees as follows:

<u>Employee</u>	<u>Date of Hire</u>	<u>Current Wage</u>	<u>1/1/98 Wage</u>	<u>1/1/99 Wage</u>	<u>1/1/00 Wage</u>
Giurbino	08/29/85	13.44	13.44	13.44	13.79
Harding	08/29/85	13.00	13.00	13.39	13.79
Pittman	08/29/85	11.08	13.00	13.39	13.79
Weber	08/29/85	13.00	13.00	13.39	13.79
Woods	07/15/86	10.28	11.50	11.85	12.20
Albert	09/09/87	10.72	11.50	11.85	12.20
Sevier	01/02/90	9.92	10.00	10.30	10.61
Stockwell	05/01/91	9.53	10.00	10.30	10.61
Kuhn	06/09/92	9.53	10.00	10.30	10.61
White	09/24/95	9.09	9.50	9.79	10.08
Caballero	11/06/95	9.09	9.50	9.79	10.08
Ruma	07/15/96	9.09	9.50	9.79	10.08
Thomson-Stockwell	07/24/96	9.09	9.50	9.79	10.08
Zack	10/10/96	9.09	9.50	9.79	10.08
Amos	10/15/96	9.09	9.50	9.79	10.08

The start rate for all new employees will be \$9.09 per hour. The after-probation rate for employees will be \$9.50. These rates will increase by 3% effective January 1, 1999 and January 1, 2000.



 Nels E. Nelson
 Factfinder

June 3, 1998
 Russell Township
 Geauga County, Ohio